

Myanmar News

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I. Notification 2/2017 on Withholding Tax

On 10 January 2017, the Ministry of Planning and Finance issued Notification 2/2017 with updated rates and regulations in respect of withholding tax on interest payments, royalties for the use of licenses, trademarks and patent rights, and payments for the purchase of goods, services performed and the leasing/hiring of property. The applicable withholding tax shall be withheld, filed and paid – regardless of whether the payment recipient has agreed to the deduction or not – in Myanmar Kyats in case of payments to resident citizens or resident foreigners and in the payment currency in case of payments to non-residents.

Notification 2/2017, which clarifies previous ambiguities on the application of withholding tax to payments for offshore services and lease agreements, will come into effect on 1 April 2017. It supersedes Notification 41/2010 dated 10 March 2010 and Notification 167/2011 dated 26 August 2011.

1. Interest Payments

Pursuant to Notification 2/2017, interest payment to non-resident foreigners for a loan or indebtedness or a transaction of similar nature are subject to 15% withholding tax. No withholding tax applies to interest payments made to resident citizens and resident foreigners.

2. Royalties

Payments for the use of licenses, trademarks, patent rights and other royalty payments to non-resident foreigners are subject to 15% withholding tax; royalty payments to resident citizens and resident foreigners are subject to 10% withholding tax.

3. Purchases/Services

Payments for the purchase of goods, work performed or supply of services within the country under a tender, contract, quotation or other modes to resident citizens and resident foreigners are subject to 2% withholding tax; payments to non-resident foreigners are subject to withholding tax of 2.5%.

It should be noted, that pursuant to the internal policies of the Internal Revenue Department, individuals making payments for

the purchase of goods and services shall not be required to withhold taxes from such payments.

Further, the internal policies provide, that the assessment whether a service or procurement is deemed to be made within the country or procured from abroad is to be made by the Director-General of the of the Internal Revenue Department.

4. Lease/Rental/Hiring

Previously, it was unclear whether rental payments are subject to withholding tax. Pursuant to the Notification 2/2017, payments for “*leasing/hiring arrangements within the country under a (...) contract*” shall be subject to withholding tax at a rate of 2% for payments to resident citizens and resident foreigners, and 2.5% for payments to non-resident foreigners. Upon enquiry with the Internal Revenue Department, it was verbally confirmed that this definition includes rental payments for (residential) premises within Myanmar.

It should be noted, that pursuant to the internal policies of the Internal Revenue Department, individuals making rental payments shall not be required to withhold taxes from such payments.

Further, the internal policies provide, that the assessment whether a lease or rental is deemed to be made within the country or procured from abroad is to be made by the Director-General of the of the Internal Revenue Department.

5. Exemptions from Withholding Tax

No withholding tax shall be imposed on:

- Payments between government organizations and payments to government bodies and State-owned Enterprises; and
- Interest payments to a non-resident foreigner/foreign owned company for a loan or indebtedness or a transaction of similar nature, if the non-resident foreigner/foreign owned company provides the loan through a branch office within Myanmar and undergoes tax assessment domestically.

6. Minimum Threshold

If the total cumulative amount of all payments to a recipient within a financial year does not exceed MMK 500,000, no with-

holding tax shall be imposed. Kindly note, however, that a list of all such payments which do not exceed the prescribed threshold shall be submitted to the relevant tax office.

7. Tax-Exempted Payment Recipients

Pursuant to the internal policies of the Internal Revenue Department, enterprises exempted from income tax, e.g. pursuant to the Myanmar Investment Law, 2017 or the Special Economic Zone Law, 2014, shall apply for confirmation of such tax exemption with the Internal Revenue Department.

8. Double Taxation Agreement

If a non-resident recipient is a resident of a country with which Myanmar has entered into a Double Tax Agreement, and such recipient is able to provide a Certificate of Residency issued by the tax authority of such country of residence, withholding tax shall be processed at the rate prescribed in such tax treaty.

Myanmar has so far signed eight (8) Double Tax Agreements, and it should be noted, that not all of them provide for a full exemption, e.g. for payments for services provided:

- United Kingdom
- Socialist Republic of Vietnam
- Republic of Korea
- Malaysia
- Republic of India
- Republic of Singapore
- Lao Peoples' Democratic Republic
- Thailand.

The internal policies of the Internal Revenue Department provide in this regard, that an application shall be made in advance, together with the Certificate of Residence and, in case of business income, sufficient information to establish that the recipient of the payment does not maintain a permanent establishment within the country.

Comment Luther: For more information on the application process, please do not hesitate to contact us.

9. Payment of Withholding Tax

Any person or enterprise deducting withholding tax shall file and pay the withholding tax within seven (7) days from such

payment. In practice, the tax authorities do however allow payment on a monthly basis.

While withholding tax on payments to resident citizens and resident foreigners may be set off against the annual tax obligations, the withholding tax is final for non-resident foreigners, provided that it may be offset if such non-resident foreigners maintain a branch office in Myanmar and undergo domestic tax assessment.

The internal policies further elaborate on the process as follows:

- In case of payments to resident citizens and resident foreigners, withholding tax shall be deducted and paid in MMK. In case of payments to non-resident foreigners, withholding tax shall be deducted and paid in the currency of the payment.
- Withholding tax shall be deposited to the bank account of the relevant Revenue Office within seven (7) days from the day of deduction. In case of governmental organization, withholding tax, shall be deposited on the same day of the deduction.
- The bank deposit slip should state the name of the person/company/enterprise liable to pay the withholding tax (i.e. the payment recipient, not the person deducting, filing and paying the tax).
- For payment, Form PaTaKha(WaNga)17 shall be used, which may be obtained from the relevant Revenue Office or downloaded from www.irdmyanmar.gov.mm, and prepared in triplicate with the necessary particulars such as the name, address of the person/company from whom withholding Tax was deducted, the transaction concerned and the department/organization making the payment duly completed. Within seven (7) days of deduction, copies shall be sent to the relevant Revenue Office and to the recipient from whom withholding tax was deducted, with one copy to be retained by the payer.

II. Union Tax Law, 2017

Since 2014, the parliament announces changes to income tax, Commercial Tax and Special Goods Tax on an annual basis. On 25 January 2017, the parliament enacted Union Tax Law, 2017, coming into force on 1 April 2017 (i.e. with the beginning of the financial year 2017/18).

Please find below a summary of the most important changes introduced by the Union Tax Law, 2017.

1. Income Tax

1.1. Corporate Income Tax

The rate of corporate income tax remains unchanged at 25% under the new Union Tax Law, 2017.

Newly established small or medium enterprises shall not pay income tax on net profits not exceeding MMK 10,000,000 during the first three (3) consecutive years including the year of commencement of business. Small and medium enterprises with higher profits shall be taxed only on the profit exceeding the said threshold.

1.2. Personal Income Tax

Similarly, no major changes have been announced for the taxation of individuals, with personal income tax rates remaining unchanged at 0%-25% with a personal basic relief for residents at 20% of the salary income (capped at MMK 10,000,000).

No income tax shall be levied on individuals earning less than MMK 4,800,000 per year. In addition, tax reliefs for resident tax payers living together with parents, a spouse or children remain unchanged:

- Co-resident parent relief: MMK 1,000,000 per parent;
- Spouse relief: MMK 1,000,000; and
- Child relief: MMK 500,000 per offspring.

1.3. Lease/Rental Income

Income received from the leasing of land, buildings or apartments shall be separately taxed at 10% after deduction of reliefs under section 6 Income Tax Law (as amended 2011).

1.4. Relief or Exemption from Income Tax

The new Union Tax Law, 2017 expressly provides for the Ministry of Planning and Finance's power to grant relief or exemption on income tax in respect of income related to activities carried out with donations or assistance provided by domestic or foreign entities as well as income related to public companies listed on the Yangon Stock Exchange.

2. Commercial Tax

While Myanmar has not yet implemented a value added tax (VAT) system, Commercial Tax is levied as a turnover tax on a wide range of goods and services produced, traded or rendered within Myanmar as well as the import of goods based on the landed cost (i.e. the sum of the cost, insurance and freight value, and customs duties).

Exempted from the collection of Commercial Tax are only enterprises not exceeding the statutory annual threshold for taxable supply (sale of goods or services), which has been increased from MMK 20,000,000 to MMK 50,000,000. Further, no Commercial Tax shall be levied on imports not exceeding the Custom Department's *Deminimis Value Threshold*, tariff exemption related to fast-track clearance in accordance with Customs standard procedures.

2.1. Commercial Tax on Imports, Sales and Services

Any manufacturer, trader and service provider is required to register for Commercial Tax. The general Commercial Tax rate on the import or sale of goods and provision of services remains unchanged at 5%. Commercial Tax at a reduced rate applies to passenger transport services by domestic airlines and sales proceeds on construction/sale of buildings at 3%, and the sale of gold jewellery at 1%.

2.2. Commercial Tax - Exempted Goods

Under the new Union Tax Law, 2017, the total number of goods exempted from Commercial Tax was increased from 86 (Union Tax Law, 2016) to 87.

No Commercial Tax shall be levied on the sale of the following goods:

Sr.	Type of Goods
1	Paddy, rice, broken rice, coarse bran, fine bran, paddy husks
2	Coarse flour, fine flour
3	Grain and powder of corn all kinds
4	Pulses of all kinds, halves, flour, bran and shells
5	Groundnuts, shelled or unshelled
6	Sesamum
7	Mustard seed, sunflower seed, tamarind seed, cotton seed
8	Oil palm
9	Raw cotton of all kinds
10	Jute and other fibres
11	Garlic, onions
12	Potatoes
13	Tapioca bulb, tapioca flour
14	Spices, raw (leaf, fruit, seed, bark); spices, prepared (masala)
15	Fresh fruits of all kinds
16	Vegetables
17	Sugarcane, sugar, palm-candy, jaggery
18	Mulberry leaves (silkworm fodder)
19	Medicinal plants or herbs
20	Thatch, reeds, 'dani' ¹ , 'taung-htan' ² , 'hpala' ³ , 'wa-u' ⁴ , 'thanaka' ⁵ and such agricultural products not elsewhere specified
21	Firewood, bamboo
22	Live animals, fish, prawns
23	Silk cocoons
24	Cane, finished or unfinished
25	Honey, beeswax
26	Lac
27	Cake, meal and residue of groundnuts, sesamum, cotton seeds, rice bran etc.
28	Bleaching substances (hydrochlorides only)
29	Coir yarn, palm-shell charcoal
30	Tea leaves, fresh or dry, of all kinds
31	Stamps, all kinds (including revenue stamps), [Myanmar National] lottery tickets
32	Sealing wax and sticks
33	Slates, slate pencils and chalk
34	Shrimp and fish sauces (ngan-pya-ye)
35	Oil of peanut, sesamum
36	Fresh fish, fresh prawn, fresh meat
37	Dried fish, dried prawns, all kinds
38	Marinated fish, marinated prawns, all kinds
39	Fish powder, prawn powder

1 Nipa palm. Mountain palm.

2 Cardamom plant. Elettaria Cardamomum.

3 Elephant foot yam tuber. Limonia Acidissima.

Sr.	Type of Goods
40	Milk, condensed milk, tinned milk and milk-powder all kinds
41	Soy milk
42	Chilli, chilli powder
43	Saffron, saffron powder
44	Ginger
45	Fish paste
46	Ripe tamarind
47	National flags
48	Prayer beads, all kinds (excluding those made from precious stones)
49	Various kinds of rulers, eraser, sharpener
50	Wood-replacement fuel block
51	Coconut oil (not edible palm oil)
52	Various kinds of fowl eggs
53	Pumpkin seeds, watermelon seeds, cashew nuts
54	Religious clothes (such as monk's robes)
55	Oil dregs
56	Salt of all kinds
57	Rubber
58	Betel nuts
59	Synthetic fertilizers
60	Insecticides, herbicides, spray for livestock farms
61	Agricultural machinery, tools and spare-parts, four-wheeled ploughing-machines
62	Raw materials and finished goods for animal fodder, fish meal, prawn meal
63	Medicaments and vaccines for animals, fish, prawn
64	Artificial insemination fluid and tubes for high-grade breeding
65	Solar panel, solar charger controller and solar inverter
66	X-ray film, plates and other x-ray, surgical and medicinal pharmaceutical apparatus and equipment (only for goods imported or produced by self for use in own hospital, clinics)
67	Bandages, gauze, other surgical dressing materials, hospital and surgical outfit and sundries (only for goods imported or produced by self for use in own hospital, clinics)
68	Household medicines and other pharmaceuticals including indigenous medicines all kinds for human consumption (as prescribed through notification of Ministry of Planning and Finance)
69	Pharmaceutical raw materials, including those for indigenous medicines
70	Textbooks, exercise and drawing books and various kinds of papers for the production of such books, all sorts of pencil
71	Graphite for pencil production
72	Condoms
73	Arms, vehicles, machineries, materials and equipment, accessories and spare-parts thereof, used by Defence and security organization
74	Various kinds of gun powder, various kinds of dynamites and accessories thereof used by the civil departments
75	High-grade, pure-strain cereal seeds and sprouts
76	Fire trucks, hearses
77	Goods sold in foreign exchange at specific locations for departing passengers

Sr.	Type of Goods
78	Goods for foreign diplomatic missions and consulates relevant under "Reciprocal Basis", and diplomats and non-diplomatic personnel thereof
79	Goods for use by the Armed Forces and for consumption by members of the Armed Forces, purchased under expenditure budget allocated to the Ministry of Defence
80	Raw materials, components and packaging consigned by principal from abroad for cutting-manufacturing-packaging into finished goods
81	Electricity and fuel oil sold by the Ministry of Energy to foreign embassies, United Nations agencies and foreign diplomats
82	Goods procured with money donated or granted as aid to the Union by domestic/foreign organizations
83	Jet fuel oil sold for utilization on foreign outbound flights
84	Spares and parts for machinery, equipment and materials used in aeroplane or helicopters
85	Goods exempted from taxes by the Union Parliament in the interest of the Union
86	Goods imported under temporary admission or draw back systems, in accordance with customs procedures
87	Polished or unpolished jade, ruby, sapphire precious stones sold at domestic Myanmar gem fairs held under governmental auspices

2.3. Commercial Tax - Exempted Services

Under the new Union Tax Law, 2017 no Commercial Tax shall be levied on the provision of the following services:

Sr.	Kind of services
1	Parking lot services
2	Life insurance services
3	Micro-finance services
4	Healthcare services other than cosmetic body modification
5	Educational services
6	Goods carriage services (carriage with motor-vehicles, watercraft, aircraft, machineries excluding transport via pipeline)
7	Capital market services
8	Banks and financial services carried on with approval of the Central Bank
9	Customs/port clearance services
10	Catering equipment rental services
11	Cutting-manufacturing-packaging services
12	Funeral services
13	Kindergarten services
14	Traditional physiotherapy/physiotherapy by the blind
15	House moving services
16	Road toll collection services
17	Animal husbandry and veterinary services
18	Public toilet services
19	Foreign route passenger transport services
20	Art and culture services

Sr.	Kind of services
21	Public transport services (other than domestic air transport of passengers)
22	License fees paid to state organizations for some concession
23	Printing and publishing services from the security printing works under the Ministry of Defence
24	Services procured by foreign diplomatic missions and consulates relevant under "reciprocal basis", and diplomats and non-diplomatic personnel thereof
25	Services procured with money donated or granted as aid to the Union by domestic/foreign organizations
26	Goods exempted from taxes by the Union Parliament in the interest of the Union
27	Inter-organization services between organizations such as the Office of the Union, President, Office of the Union Government Cabinet, Office of the Union Parliament, Office of the People's Parliament, Office of the National Parliament, Office of the Union Supreme Court, Office of the Constitutional Tribunal, Office of the Union Election Commission, Office of the Union Attorney General, Office of the Union Auditor General and Office of the Union Civil Service Board, Office of the NayPyiTaw Council, Social Security Board, Offices of the Region/state governing bodies, departments
	Goods procured with money donated or granted as aid to the Union by domestic/foreign organizations (excluding services procured or provided by State-Owned-Enterprises)
28	[National] Lottery
29	Mechanized agriculture services

2.4. Relief or Exemption from Commercial Tax

Pursuant to section 15 (a) Union Tax Law, 2017, the Ministry of Planning and Finance may grant relief or exemption from Commercial Tax in respect of activities carried out with donations, assistance or loans from domestic or foreign organizations.

3. Special Goods Tax

In addition to Commercial Tax, Special Goods Tax shall be levied on certain domestically produced and sold goods, as well as the import and export of certain goods.

Special goods domestically produced are taxable according to their value-grade (based on the [ex-factory] sales price provided by the factory/workshop/workplace or the sales price estimated by the Director-General and Management Committee of the Internal Revenue Department depending on the market price, whichever is greater).

Special goods domestically produced and sold which are not taxable in accordance with the previous paragraph will be taxed based on the price determined by the Management Committee of the Internal Revenue Department.

Imported special goods will be taxed based on the landed value.

3.1. Special Goods Tax on Production, Import and Sale

The total number of special goods being subject to Special Goods Tax was increased from 16 (Union Tax Law, 2016) to 17, and various rates were adjusted, introducing for example a 50% Special Goods Tax on vans, saloons, sedans, estate wagons and coupes other than double-cab 4-door pickups with more than 4,000 cc.

The new rates are as follows, provided that no Special Goods Tax shall be levied on domestically manufactured and distributed tobacco, cheroot and cigars if the sales proceeds within a financial year do not exceed MMK 20,000,000.

Sr.	Type of Special Goods	Value Grade	Tax Rate
1	(a) Cigarettes, all kinds	Grade of sale price up to MMK 400 per 20-stick packet	MMK 4/stick
	(b) Cigarettes, all kinds	Grade of sale price MMK 401-600 per 20-stick packet	MMK 9/stick
	(c) Cigarettes, all kinds	Grade of sale price MMK 601- 800 per 20-stick packet	MMK 13/stick
	(d) Cigarettes, all kinds	Grade of sale price from MMK 801 and above per 20-stick packet	MMK 16/stick
2	Tobacco		60%
3	Virginia tobacco, cured		60%
4	(a) Cheroots	Grade of sale price up to MMK 10 per piece	MMK 0.5/piece
	(b) Cheroots	Grade of sale price up to MMK 11 and above per piece	MMK 1.0/piece
5	Cigars		80%
6	Pipe tobacco		80%
7	Betel chewing tobacco, all kinds		80%
8	(a) Alcoholic liquor, all kinds	Value up to MMK 750/litre	MMK 91/litre
	(b) Alcoholic liquor, all kinds	Value up to MMK 751-1,500/litre	MMK 274/litre
	(c) Alcoholic liquor, all kinds	Value up to MMK 1,501-2,250/litre	MMK 457/litre
	(d) Alcoholic liquor, all kinds	Value up to MMK 2,251-3,000/litre	MMK 640/litre
	(e) Alcoholic liquor, all kinds	Value up to MMK 3,001-3,750/litre	MMK 823/litre
	(f) Alcoholic liquor, all kinds	Value up to MMK 3,751-4,500/litre	MMK 1,006/litre
	(g) Alcoholic liquor, all kinds	Value up to MMK 4,501-6,000/litre	MMK 1,280/litre
	(h) Alcoholic liquor, all kinds	Value up to MMK 6,001-7,500/litre	MMK 1,646/litre
	(i) Alcoholic liquor, all kinds	Value up to MMK 7,501-9,000/litre	MMK 2,011/litre
	(j) Alcoholic liquor, all kinds	Value up to MMK 9,001-10,500/litre	MMK 2,377/litre
	(k) Alcoholic liquor, all kinds	Value up to MMK 10,501-13,500/litre	MMK 2,925/litre
	(l) Alcoholic liquor, all kinds	Value up to MMK 13,501-16,500/litre	MMK 3,657/litre
	(m) Alcoholic liquor, all kinds	Value up to MMK 16,501-19,500/litre	MMK 4,388/litre
	(n) Alcoholic liquor, all kinds	Value up to MMK 19,501-22,500/litre	MMK 5,119/litre
(o) Alcoholic liquor, all kinds	Value up to MMK 22,501-26,000/litre	MMK 5,911/litre	
(p) Alcoholic liquor, all kinds	Value MMK 26,001/litre and above	60% of per litre value	
9	Beer, all kinds		60%
10	(a) Wine, all kinds	Value up to MMK 750/litre	MMK 81/litre
	(b) Wine, all kinds	Value up to MMK 751-1,500/litre	MMK 244/litre
	(c) Wine, all kinds	Value up to MMK 1,501-2,250/litre	MMK 406/litre
	(d) Wine, all kinds	Value up to MMK 2,251-3,000/litre	MMK 569/litre
	(e) Wine, all kinds	Value up to MMK 3,001-3,750/litre	MMK 732/litre
	(f) Wine, all kinds	Value up to MMK 3,751-4,500/litre	MMK 894litre
	(g) Wine, all kinds	Value up to MMK 4,501-6,000/litre	MMK 1138/litre
	(h) Wine, all kinds	Value up to MMK 6,001-7,500/litre	MMK 1,463/litre
	(i) Wine, all kinds	Value up to MMK 7,501-9,000/litre	MMK 1,788/litre

Sr.	Type of Special Goods	Value Grade	Tax Rate
	(j) Wine, all kinds	Value up to MMK 9,001-10,500/litre	MMK 2,113/litre
	(k) Wine, all kinds	Value up to MMK 10,501-13,500/litre	MMK 2,600/litre
	(l) Wine, all kinds	Value up to MMK 13,501-16,500/litre	MMK 3,250/litre
	(m) Wine, all kinds	Value up to MMK 16,501-19,500/litre	MMK 3,900/litre
	(n) Wine, all kinds	Value up to MMK 19,501-22,500/litre	MMK 4,550/litre
	(o) Wine, all kinds	Value up to MMK 22,501-26,000/litre	MMK 5,254/litre
	(p) Wine, all kinds	Value MMK 26,001/litre and above	50% of per litre value
11	Logs and conversions		5%
12	Unpolished jade		15%
13	Unpolished ruby, sapphire, emerald		10%
14	Polished jade, ruby, sapphire, emerald; and jade, ruby, sapphire, emerald attached to jewellery		5%
15	Vans, saloons, sedans, estate wagons and coupes other than double-cab 4-door pickups of 1,501 cc to 2,000 cc		20%
	Vans, saloons, sedans, estate wagons and coupes other than double-cab 4-door pickups of 2,001 cc to 4,000 cc		30%
	Vans, saloons, sedans, estate wagons and coupes other than double-cab 4-door pickups of above 4,000 cc		50%
16	Kerosene, gasoline, diesel, jet fuel oil		5%
17	Natural gas		8%

3.2. Special Goods Tax on Exports

No Special Goods Tax shall be imposed on the export of special goods other than those specified below, provided that Special Goods Tax already paid at the time of purchase, import or manufacture may be deducted from Special Goods Tax levied on exports:

Sr.	Type of Goods	Tax Rate
1	Natural gas	8%
2	Logs and conversions	5%
3	Unpolished jade	15%
4	Unpolished ruby, sapphire, diamond, emerald and other unpolished precious stones	10%
5	Polished jade, ruby, sapphire, diamond, emerald and other polished precious stones; and jade, ruby, sapphire, diamond, emerald other polished precious stones attached to jewellery	5%

III. Draft Law Amending the Special Goods Tax Law

In March 2017, the (Draft Law Amending Special Goods Tax Law) was published, providing for some significant changes in applying the Special Goods Tax Law (e.g. in addition to persons who import, export, manufacture or possess Special Goods, the Special Goods Tax Law will in future also apply to persons dealing within the Union in jade and gems).

The provisions of this Law shall be effective from the Fiscal Year 2017-2018.

1. Imposition of Tax and Liability to Pay Tax

Pursuant to sec. 4 (a) Special Goods Tax Law, 2016 any person who carries out the following activities shall be imposed with tax as specified in the appendix schedule of the law:-

- Import of Special Goods;
- Domestic manufacture of Special Goods; or
- Export of Special Goods.

Pursuant to sec. 4 (c) of the Draft Law Amending the Special Goods Tax Law, any person who imports, exports, manufactures or possesses Special Goods, as well as gem dealers, shall comply with the law and the rules issued thereunder.

In case of:-

- Imported Special Goods, tax shall be paid by the importer of such Special Goods (and collected by the Customs Department together with custom duties in the same manner as custom duties);
- Domestically manufactured Special Goods, tax shall be paid by the manufacturer of such Special Goods;
- Exported Special Goods, tax shall be paid by the exporter of such Special Goods (sec. 5 Special Goods Tax Law, 2016).

Pursuant to sec. 5 (d) of the Draft Law Amending the Special Goods Tax Law, sellers of gems shall also pay Special Goods Tax. In case no Special Goods Tax has been paid, the person having the Special Goods in his/her possession shall pay the

applicable tax (sec. 5 (e) of the Draft Law Amending the Special Goods Tax Law).

Previously, the relevant assessee had to submit the information required for determining the sale-price as prescribed in respect of Special Goods domestically manufactured or in possession and for which tax has not been paid to the Township Revenue Office.

Under the proposed Draft Law Amending the Special Goods Tax Law, manufacturers or importers of Special Goods shall apply through the Revenue Officer to the Director-General for determination of the Value-Grade of the Special Goods manufactured or imported for the relevant fiscal year (sec. 6 (b) (1), (3) of the Draft Law Amending the Special Goods Tax Law). Special Goods for which the Value-Grade has not been determined may be determined as highest Value-Grade unless the Director-General determines another appropriate Value-Grade (sec. 6 (b) (4) of the Draft Law Amending the Special Goods Tax Law).

Pursuant to sec. 7 (a) of the Draft Law Amending the Special Goods Tax Law, in respect of taxable Special Goods, computations shall be carried out utilizing the tax rate which is determined based on the value, quantity, weight or other measurement at the following date:

- In case of imports or exports, the date of custom clearance of such Special Goods;
- In case of Special Goods manufactured domestically, the date of manufacture of the Special Goods as prescribed by notification of the Ministry or – for all other Special Goods – the date of sale of the Special Goods;
- The date of discovery for Special Goods for which tax under the law has not been assessed;
- The date of sale for dealing in gems; or
- Other suitable methods as prescribed by the Director-General.

Pursuant to sec. 7 (b) of the Draft Law Amending the Special Goods Tax Law, computation of the amount of Special Goods Tax payable shall be based on the following values:

- Landed-Value for imported Special Goods;
- The Ex-Factory price approved for the relevant fiscal year by the Director-General and the Management Committee of the Internal Revenue Department for Special Goods manufac-

tured domestically (as prescribed by Notification of the Ministry) or the greater of the Ex-Factory price submitted by the manufacturer or determined by the Director-General or the Township Revenue Officer;

- Free On Board (FOB) price for exported Special Goods;
- Sale price or market price at the time of discovery for Special Goods for which tax under this Law has not been assessed;
- The value computed according to methods prescribed by the Director-General for Special Goods for which tax under the law has not been assessed and which cannot be assessed based on the sale price or market price at the time of discovery; or
- The sale proceeds for the dealing in gems.

Pursuant to sec. 7 (c) of the Draft Law Amending the Special Goods Tax Law, any person assessed with tax under the law shall make payment as follows:

- Before clearance for imported Special Goods,;
- For domestic manufacture of Special Goods within ten (10) days after the month of manufacture of such Special Goods (as prescribed by notification of the Ministry) or – for all other Special Goods - within ten (10) days after the month in which they are sold;
- For exported Special Goods within ten (10) days after the month in which they are exported;
- Within seven (7) days discovery for Special Goods for which tax under the law has not been assessed; or
- Within ten (10) days after the month of sale for the dealing in gems.

2. Tax Exemptions and Reliefs

Pursuant to sec. 9 (a) of the Draft Law Amending the Special Goods Tax Law, no tax shall be imposed on the following Special Goods:

Sr.	Type of Special Goods
1	Exported Special Goods other than those stipulated as taxable on export by means of the Union Tariffs Law
2	Special Goods sold to travellers from Duty-Free Outlets, other than Special Goods prescribed to be assessed tax on export
3	Special Goods sold on-board aircraft or vessel plying foreign route, other than Special Goods prescribed to be assessed tax on export
4	Special Goods imported temporarily with objective of re-exporting
5	Special Goods imported or domestically manufactured for the purpose of donation domestically by foreign or domestic donors in respect of social, spiritual, health, educational matters
6	Special Goods imported for persons exempted under international law, international or diplomatic conventions
7	Fuel oil intended for use by aircraft departing to a foreign country

In addition, the Union Government Cabinet may grant tax exemption or relief in respect of the following Special Goods (sec. 9 (c) Draft Law):

Sr.	Type of Special Goods
1	Special Goods provided as assistance to the Union by foreign organizations or Special Goods procured using aid money
2	Special Goods included in mutually granted bi-lateral preferential rights
3	Special Goods manufactured by self or imported or procured by security and defence forces of the Union, other than logs or conversions of teak or hardwood having ten-inch or greater circumference, jade, ruby, sapphire, emerald, diamond and other valuable gems in unpolished or polished state

Pursuant to sec. 11 (a) of the Draft Law Amending the Special Goods Tax Law, a manufacturer or exporter of Special Goods may, from tax assessed, offset tax already paid at the time of purchase from another Special Goods manufacturer or import of Special Goods. In order to avoid any kind of double-taxation, such off-setting of tax on payments shall be carried out as prescribed (sec. 11 (b) of the Draft Law Amending the Special Goods Tax Law).

In general, no off-setting of tax shall be allowed for the manufacturing, selling or dealing in gems (sec. 11 (c) of the Draft Law Amending the Special Goods Tax Law). However, in case of re-purchase and export of gem or sale at a Myanma Gems Fair held under governmental auspices, the tax paid at the time of re-purchase at said fair may be offset from the tax assessed for export (sec. 11 (d) of the Draft Law Amending the Special Goods Tax Law).

3. Powers and Responsibilities

Compared to the Special Goods Tax Law, 2016 the new Draft Law Amending the Special Goods Tax Law provides for more extensive powers and responsibilities of the Director-General (who may delegate said powers and responsibilities to any individual or to committees/groups). Pursuant to sec. 12 (b) of the Draft Law Amending the Special Goods Tax Law, the Director-General may – inter alia – stop and inspect transportation vehicles that are about to depart any warehouse or business premises related to Special Goods or while transporting Special Goods (before, this was limited to the possibility to demand transportation vehicles about to depart any warehouse of taxable Special Goods to stop).

4. Registration

The Draft Law Amending the Special Goods Tax Law extends the group of persons having to register their business with the Township Revenue Office. While this obligation previously only applied to manufacturers of Special Goods, any importer, manufacturer, exporter of Special Goods and/or gems dealer shall in future also apply for registration (sec. 15 (a) of the Draft Law Amending the Special Goods Tax Law).

Upon scrutiny, the Township Revenue Office shall issue a business registration certificate for the relevant Fiscal Year (sec. 15 (c) of the Draft Law Amending the Special Goods Tax Law), which shall be renewed by the applicant each year (sec. 15 (d) of the Draft Law Amending the Special Goods Tax Law).

5. Submission of Declaration Form

Previously, only domestic manufacturers of Special Goods were required to submit a monthly declaration to the Township Revenue Officer; importers of taxable Special Goods were required to submit a list of imported Special Goods to the Customs Department before clearance. Pursuant to sec. 16 (a) of the Draft Law Amending the Special Goods Tax Law, both

manufacturers and importers of taxable Special Goods (as well as gem dealers) shall now all submit a quarterly declaration form to the Township Revenue Officer.

In addition, importers of taxable Special Goods shall submit a list of imported Special Goods to the Customs Department before clearance from the Customs Department (sec. 16 (c) of the Draft Law Amending the Special Goods Tax Law).

6. Assessment and Refund

The Draft Law Amending the Special Goods Tax Law provides for a self-assessment, and if the Township Revenue Office is satisfied that the declaration form is complete and correct, Special Goods Tax shall be assessed correspondingly (sec. 17 (a) of the Draft Law Amending the Special Goods Tax Law). Otherwise, the authorities may assess the payable tax through examination of any evidence as may be required (sec. 17 (b) of the Draft Law Amending the Special Goods Tax Law). Should the taxpayer fail to submit a declaration form, the Township Revenue Office shall assess tax based on information received or further demanded (sec. 17 (c), (d) of the Draft Law Amending the Special Goods Tax Law).

IV. Notification 6/2017 on “Procedures for legal action against imports in contravention of license, specifications”

On 11 January 2017, exercising the powers conferred by section 204 (b) of the Sea Customs Act, 1878, the Ministry of Planning and Finance issued Notification 6/2017 on the “*Procedures for legal action against imports in contravention of license, specifications*”.

These new procedures, pursuant to which goods imported into Myanmar without the necessary permission may be confiscated, and any person involved in such offence shall be punished with a fine or imprisonment, came into force 60-days after the issuance of Notification 6/2017.

1. Legal Action against improper Imports

Pursuant to sec. 3 of Notification 6/2017, goods imported into Myanmar without any documents of permission and in contravention of prohibitions or regulatory restrictions shall be liable for confiscation under section 167 (8) Sea Customs Act, 1878 and section 7 (1) of the Land Customs Act, 1924. Any person that is involved in such offence shall be liable for payment of a fine not exceeding three (3) times the value of customs duties on such goods. In the absence of which (the value of customs duties on such goods), said person may be charged by a criminal court, and shall upon conviction be liable for a prison term not exceeding three (3) years.

2. Re-Possession

The owner of the confiscated goods may apply to the Director General under section 183 of the Sea Customs Act, 1878 to be allowed to take re-possession of the goods after payment of the appropriate monetary penalties. Depending on the magnitude of the offence, the Director General may allow such repossessing of the goods (section 4 of Notification 6/2017).

3. Fines

Fines for the improper import of motor-vehicles, machines and general goods imported in contravention of license requirements and restrictions are prescribed in the annexed schedule of Notification 6/2017. Legal action will be taken under the Sea Customs Act, 1878 and the Land Customs Act, 1924 against import of prohibited goods (section 5 of Notification 6/2017).

4. Appeal

Any person aggrieved by any order or decision made by a Customs Officer under the Sea Customs Act, 1878 may within one month of such ruling, lodge an appeal in accordance with section 188 and section 189 of the Sea Customs Act, 1878 (section 6 of Notification 6/2017).

Annex I - Unofficial English Translation

The Government of the Republic of the Union of Myanmar
Ministry of Planning and Finance Office of the Union Minister

Notification 2/2017

January 10, 2017

1. Exercising the powers conferred by Section (16) sub-section (b) of the Income Tax Law, the Ministry of Planning and Finance, with the approval of the Union Government Cabinet, hereby issues rates of withholding tax in respect of the following categories of non-salary payments:

Sr.		Withholding Tax %	
		Payments to Resident Citizens and Resident Foreigners	Payments to Non-resident Foreigners
a.	Interest payment for a loan or indebtedness or a transaction of similar nature or Saving	-	15.0
b.	Royalties for the use of Licenses, Trade-marks, Patent Right etc.	10.0	15.0
c.	Payment by State organizations, State enterprises, Development Committees, co-operative societies, foreign companies, foreign enterprises and organizations, local companies and under an existing law for purchase of goods, work performed or supply of services and hiring/leasing of property within the country under a tender, contract, quotation or other modes (other than the services mentioned in above items of this table.):	2.0	2.5

2. Tax shall be withheld at rates prescribed in the above paragraph, in Kyats in case of payment to Resident Citizen or Resident Foreigner, and in the payment currency in case of payment to Non-resident Foreigner, and deposited to the bank account of the relevant tax office under the name of the individual or entity receiving of the payment.
3. The withholding tax in paragraph #1 in respect of Non-resident Foreigner shall be deemed as the income tax paid under final assessment in respect of said Non-resident Foreigner, provided that the withholding tax shall be offset from the income tax assessed on business carried on within the country as a branch-office of the Non-resident Foreigner.
4. Upon presentation by a Non-resident Foreigner of a Certificate of Resident (sic) from the internal revenue service of the relevant country which is party to an Agreement for Avoidance of Double Taxation and Prevention of Fiscal Evasion (Tax Treaty), withholding tax shall be processed at the rate prescribed in such Tax Treaty concluded with the relevant country.
5. The person who processes withholding tax shall prepare the form prescribed by the Internal Revenue Department in triplicate, with the original provided to the assessee, one duplicate provided to the relevant tax office and the remaining duplicate retained.
6. In processing withholding tax as per paragraph #1:
- No withholding tax shall be imposed in case the sum of payments within one income year does not exceed Kyats 5-lakhs. If sum of payments exceeds Kyats 5-lakhs, withholding tax shall be imposed on the aggregate payment at the corresponding rate.
 - Even though individual payments do not exceed the prescribed amount, withholding tax shall be imposed at the prescribed rates in the case where multiple payments within the year exceed the prescribed amount.

- c. In case of payment to Non-resident Foreigner or payment in foreign currency, withholding tax shall be imposed on all of the payment at the corresponding rates in the table.
 - d. For all categories of payment, the list of payments which do not reach the prescribed [threshold] amount for imposition of withholding tax shall be reported to the relevant tax office as information.
7. However:
- a. No withholding tax shall be imposed on payments between government organizations, payments to government bodies and State-Owned Enterprises.
 - b. No withholding tax shall be imposed on interest payments for a loan or indebtedness or a transaction of similar nature or saving, if the branch-office of the Non-resident Foreigner is registered within the country and if it undergoes tax assessment domestically.
 - c. The Director-General of the Internal Revenue Department has the power to prescribe measures to avoid repeated impositions of tax for the same transaction, even though it may come under categories of payments in above paragraph #1.
 - d. Refusal of the receiver of payment to agree to imposition of withholding tax shall not relieve the payment maker from his duty to impose withholding tax.
8. This Notification rescinds notification 41/2010 dated 10-3-2010 and notification 167/2011 dated 26-8-2011 of the Ministry of Finance and Revenue.
9. This Notification shall apply with effect from April 1, 2017.

Kyaw Win
Union Minister

Annex II - Unofficial English Translation

2017 Union Tax Law
Union Parliament Law No. 4/2017
March 1, 2017

The Union Parliament hereby enacts this Law.

Chapter 1: Title, Effective Date and Definitions

1. –
 - a. This law shall be known as the **2017 Union Tax Law**.
 - b. This Law shall be effective commencing from April 1, 2017 for the financial year 2017-2018 with regard to Chapter (5)-“Special Goods Tax”, Chapter (6)-“Commercial Tax”.
 - c. With regard to Chapter (7)-“Income Tax” of this Law:
 - (1) provisions concerning Salary Income contained in Section (19) and provisions contained in Section (25) shall be effective commencing from April 1, 2017.
 - (2) the remaining provisions shall be effective commencing from the income year 2017-2018.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - a. **Tax** means taxes, custom duties, charges, license fees, permit fees and fines levied by the Union Government for the Union.
 - b. **Legislation** means laws enacted concerning taxes levied by the Union Government for the Union.
 - c. **Relevant Ministry** means the Union Ministries and the Nay Pyi Taw Council responsible for collecting taxes levied by the Union Government for the Union.
 - d. **Budget Law** means the Union Budget Law issued annually and the Supplementary Budget Allocations Law.
 - e. **Taxation Rate** means the taxation rates stipulated for taxes levied by the Union Government for the Union.

Chapter 2: Tax Revenue Budget

3. The Union Tax Revenues specified in the Union Budget Law is the taxes budgeted for collection in the relevant year as per Schedule (1) of this Law.

Chapter 3: Stipulation of Tax Rates and Reporting

4. The Relevant Ministry shall collect the tax amounts budgeted in respect of the tax classes specified in this Law, at the tax rates contained in this Law.
5. The Union Government Cabinet shall introduce a motion for consideration by the Union Parliament, if desirous of amending the tax rates contained in this Law.

6. –
 - a. The Relevant Ministry shall send to the Budget Department the quarterly status of collection with regard to the budgeted tax amounts contained in Schedule (1) of this Law.
 - b. The Budget Department shall consolidate the statements of collected taxes sent by Relevant Ministries, and report quarterly with assessments to the Union Government Cabinet through the Ministry of Planning and Finance.
7. The Union Government Cabinet shall report to the Union Parliament the six-monthly status of collection with regard to the budgeted tax amounts contained in Schedule (1) of this Law.

Chapter 4: Duties and Powers of the Relevant Ministry

8. A Relevant Ministry shall be responsible for administering and supervising the collection as budgeted of tax amounts contained in Schedule (1) of this Law.
9. In order that the provisions related to Special Goods Tax, Commercial Tax and Income Tax may be complied with in clarity, the Union Government Ministry of Planning and Finance may issue directives as necessary without altering the original meaning of the provisions.
10. In order that those liable to pay taxes do pay in accordance with Legislation, a Relevant Ministry may procure the assistance and necessary information from the Union, President, Union Government Cabinet, Union Parliament, People’s Parliament, National Parliament, Union Supreme Court, Constitutional Tribunal, Union Election Commission, Union Attorney General, Union Auditor General and Union Civil Service Board, Nay Pyi Taw Council, Union Ministries, Central Bank of Myanmar, Region/state government cabinets and Leading-bodies of Self-Administered Division/zones.

Chapter 5: Special Goods Tax

11. The Appendix Schedules of the Special Goods Tax Law are stipulated as follows in accordance with Section (6) of that law:

Special Goods

- a. Special Goods Tax in respect of the Special Goods specified in the following Schedule shall be levied at the respective tax rates shown adjacent:
 - (1) In case of domestically produced Special Goods taxable according to value-grade, based on whichever is greater between the [ex-factory] sales price provided by the factory/workshop/workplace or the sales price estimated by the Director-General and Management Committee of the Internal Revenue Department depending on the market price;
 - (2) In case of domestic production and sale of Special Goods not taxable according to value-grade, based on the price determined by the Management Committee of the Internal Revenue Department;
 - (3) on the landed value in case of imports;

Sr.	Type of Special Goods	Value Grade	Tax Rate
1	(a) Cigarettes, all kinds	Grade of sale price up to MMK 400 per 20-stick packet	MMK 4/stick

	(b) Cigarettes, all kinds	Grade of sale price MMK 401-600 per 20-stick packet	MMK 9 /stick
	(c) Cigarettes, all kinds	Grade of sale price MMK 601- 800 per 20-stick packet	MMK 13 /stick
	(d) Cigarettes, all kinds	Grade of sale price from MMK 801 and above per 20-stick packet	MMK 16 /stick
2	Tobacco		60%
3	Virginia tobacco, cured		60%
4	(a) Cheroots	Grade of sale price up to MMK 10 per piece	MMK 0.5 /piece
	(b) Cheroots	Grade of sale price up to MMK 11 and above per piece	MMK 1.0 /piece
5	Cigars		80%
6	Pipe tobacco		80%
7	Betel chewing tobacco, all kinds		80%
8	(a) Alcoholic liquor, all kinds	Value up to MMK 750 /litre	MMK 91 /litre
	(b) Alcoholic liquor, all kinds	Value up to MMK 751-1,500 /litre	MMK 274 /litre
	(c) Alcoholic liquor, all kinds	Value up to MMK 1,501-2,250 /litre	MMK 457 /litre
	(d) Alcoholic liquor, all kinds	Value up to MMK 2,251-3,000 /litre	MMK 640 /litre
	(e) Alcoholic liquor, all kinds	Value up to MMK 3,001-3,750 /litre	MMK 823 /litre
	(f) Alcoholic liquor, all kinds	Value up to MMK 3,751-4,500 /litre	MMK 1,006 /litre
	(g) Alcoholic liquor, all kinds	Value up to MMK 4,501-6,000 /litre	MMK 1,280 /litre
	(h) Alcoholic liquor, all kinds	Value up to MMK 6,001-7,500 /litre	MMK 1,646 /litre
	(i) Alcoholic liquor, all kinds	Value up to MMK 7,501-9,000 /litre	MMK 2,011 /litre
	(j) Alcoholic liquor, all kinds	Value up to MMK 9,001-10,500 /litre	MMK 2,377 /litre
	(k) Alcoholic liquor, all kinds	Value up to MMK 10,501-13,500 /litre	MMK 2,925 /litre
	(l) Alcoholic liquor, all kinds	Value up to MMK 13,501-16,500 /litre	MMK 3,657 /litre
	(m) Alcoholic liquor, all kinds	Value up to MMK 16,501-19,500 /litre	MMK 4,388 /litre
	(n) Alcoholic liquor, all kinds	Value up to MMK 19,501-22,500 /litre	MMK 5,119 /litre
	(o) Alcoholic liquor, all kinds	Value up to MMK 22,501-26,000 /litre	MMK 5,911 /litre
	(p) Alcoholic liquor, all kinds	Value MMK 26,001 /litre and above	60% of per litre value
9	Beer, all kinds		60%
10	(a) Wine, all kinds	Value up to MMK 750 /litre	MMK 81 /litre
	(b) Wine, all kinds	Value up to MMK 751-1,500 /litre	MMK 244 /litre
	(c) Wine, all kinds	Value up to MMK 1,501-2,250 /litre	MMK 406 /litre
	(d) Wine, all kinds	Value up to MMK 2,251-3,000 /litre	MMK 569 /litre
	(e) Wine, all kinds	Value up to MMK 3,001-3,750 /litre	MMK 732 /litre
	(f) Wine, all kinds	Value up to MMK 3,751-4,500 /litre	MMK 894 litre
	(g) Wine, all kinds	Value up to MMK 4,501-6,000 /litre	MMK 1138 /litre
	(h) Wine, all kinds	Value up to MMK 6,001-7,500 /litre	MMK 1,463 /litre

Sr.	Type of Special Goods	Value Grade	Tax Rate
	(i) Wine, all kinds	Value up to MMK 7,501-9,000/litre	MMK 1,788/litre
	(j) Wine, all kinds	Value up to MMK 9,001-10,500/litre	MMK 2,113/litre
	(k) Wine, all kinds	Value up to MMK 10,501-13,500/litre	MMK 2,600/litre
	(l) Wine, all kinds	Value up to MMK 13,501-16,500/litre	MMK 3,250/litre
	(m) Wine, all kinds	Value up to MMK 16,501-19,500/litre	MMK 3,900/litre
	(n) Wine, all kinds	Value up to MMK 19,501-22,500/litre	MMK 4,550/litre
	(o) Wine, all kinds	Value up to MMK 22,501-26,000/litre	MMK 5,254/li- tre
	(p) Wine, all kinds	Value MMK 26,001/litre and above	50% of per li- tre value
11	Logs and conversions		5%
12	Unpolished jade		15%
13	Unpolished ruby, sapphire, emerald		10%
14	Polished jade, ruby, sapphire, emerald; and jade, ruby, sapphire, emerald attached to jewellery		5%
15	a. Vans, saloons, sedans, estate wagons and coupes other than double-cab 4-door pickups of 1,501 cc to 2,000 cc		20%
	b. Vans, saloons, sedans, estate wagons and coupes other than double-cab 4-door pickups of 2,001 cc to 4,000 cc		5%
	c. Vans, saloons, sedans, estate wagons and coupes other than double-cab 4-door pickups of above 4,000 cc		20%
16	Kerosene, gasoline, diesel, jet fuel oil		5%
17	Natural gas		8%

With regard to any of the following types of goods, Special Goods Tax shall be levied on exporters at rates shown adjacent. No Special Goods Tax shall be imposed on export of Special goods other than those specified. Special goods tax already paid at the time of purchase, import or manufacture shall be deducted from Special Goods Tax levied on exports:

Sr.	Type of Goods	Tax Rate
1	Natural gas	8%
2	Logs and conversions	5%
3	Unpolished jade	15%
4	Unpolished ruby, sapphire, diamond, emerald and other unpolished precious stones	10%
5	Polished jade, ruby, sapphire, diamond, emerald and other polished precious stones; and jade, ruby, sapphire, diamond, emerald other polished precious stones attached to jewellery	5%

From among the special goods liable for tax under Special Goods Tax Law, no Special Goods Tax shall be levied on tobacco, cheroot and cigar domestically manufactured and distributed if the sales proceeds within a financial year do not exceed Kyat 200 lakhs.

1. The expressions contained in Chapter (5) of this Law shall have the same meaning as defined in the Special Goods Law.

Chapter 6: Commercial Tax

2. The Appendix Schedules of the Commercial Tax Law are stipulated as follows in accordance with Section (6) of that law:

Commercial Tax Annex Schedules

a. No Commercial Tax shall be levied on any of the following goods:

Sr. Type of Goods	
1	Paddy, rice, broken rice, coarse bran, fine bran, paddy husks
2	Coarse flour, fine flour
3	Grain and powder of corn of all kinds
4	Pulses of all kinds, halves, flour, bran and shells
5	Groundnuts, shelled or unshelled
6	Sesamum
7	Mustard seed, sunflower seed, tamarind seed, cotton seed
8	Oil palm
9	Raw cotton of all kinds
10	Jute and other fibres
11	Garlic, onions
12	Potatoes
13	Tapioca bulb, tapioca flour
14	Spices, raw (leaf, fruit, seed, bark); spices, prepared (masala)
15	Fresh fruits of all kinds
16	Vegetables
17	Sugarcane, sugar, palm-candy, jaggery
18	Mulberry leaves (silkworm fodder)
19	Medicinal plants or herbs
20	Thatch, reeds, 'dani' ⁶ , 'taung-htan' ⁷ , 'hpala' ⁸ , 'wa-u' ⁹ , 'thanaka' ¹⁰ and such agricultural products not elsewhere specified
21	Firewood, bamboo
22	Live animals, fish, prawns
23	Silk cocoons
24	Cane, finished or unfinished
25	Honey, beeswax
26	Lac
27	Cake, meal and residue of groundnuts, sesamum, cotton seeds, rice bran etc.
28	Bleaching substances (hydrochlorides only)

Nipa palm.

1 Possibly "mountain-palm".

2 Cardamom plant. Elettaria Cardamomum.

3 Elephant foot yam tuber.

4 Limonia Acidissima.

Sr.	Type of Goods
29	Coir yarn, palm-shell charcoal
30	Tea leaves, fresh or dry, of all kinds
31	Stamps, all kinds (including revenue stamps), [Myanmar National] lottery tickets
32	Sealing wax and sticks
33	Slates, slate pencils and chalk
34	Shrimp and fish sauces (ngan-pya-ye)
35	Oil of peanut, sesamum
36	Fresh fish, fresh prawn, fresh meat
37	Dried fish, dried prawns, all kinds
38	Marinated fish, marinated prawns, all kinds
39	Fish powder, prawn powder
40	Milk, condensed milk, tinned milk and milk-powder all kinds
41	Soy milk
42	Chilli, chilli powder
43	Saffron, saffron powder
44	Ginger
45	Fish paste
46	Ripe tamarind
47	National flags
48	Prayer beads, all kinds (excluding those made from precious stones)
49	Various kinds of rulers, eraser, sharpener
50	Wood-replacement fuel block
51	Coconut oil (not edible palm oil)
52	Various kinds of fowl eggs
53	Pumpkin seeds, watermelon seeds, cashew nut
54	Religious clothes (such as monk's robes)
55	Oil dregs
56	Salt of all kinds
57	Rubber
58	Betel nut
59	Synthetic fertilizers
60	Insecticides, herbicides, spray for livestock farms
61	Agricultural machinery, tools and spare-parts, four-wheeled ploughing-machines
62	Raw materials and finished goods for animal fodder, fish meal, prawn meal
63	Medicaments and vaccines for animals, fish, prawn
64	Artificial Insemination fluid and tubes for high-grade breeding
65	Solar panel, solar charger controller and solar inverter
66	X-ray film, plates and other x-ray, surgical and medicinal pharmaceutical apparatus and equipment (only for goods imported or produced by self for use in own hospital, clinics)

Sr.	Type of Goods
67	Bandages, gauze, other surgical dressing materials, hospital and surgical outfit and sundries (only for goods imported or produced by self for use in own hospital, clinics)
68	Household medicines and other pharmaceuticals including indigenous medicines all kinds for human consumption (as prescribed through notification of Ministry of Planning and Finance)
69	Pharmaceutical raw materials, including those for indigenous medicines
70	Textbooks, exercise and drawing books and various kinds of papers for the production of such books, all sorts of pencil
71	Graphite for pencil production
72	Condoms
73	Arms, vehicles, machineries, materials and equipment, accessories and spare-parts thereof, used by defence and security organization
74	Various kinds of gun powder, various kinds of dynamites and accessories thereof used by the civil departments
75	High-grade, pure-strain cereal seeds and sprouts
76	Fire trucks, hearses
77	Goods sold in foreign exchange at specific locations for departing passengers
78	Goods for foreign diplomatic missions and consulates relevant under "Reciprocal Basis", and diplomats and non-diplomatic personnel thereof
79	Goods for use by the Armed Forces and for consumption by members of the Armed Forces, purchased under expenditure budget allocated to the Ministry of Defence
80	Raw materials, components and packaging consigned by principal from abroad for cutting-manufacturing-packaging into finished goods
81	Electricity and fuel oil sold by the Ministry of Energy to foreign embassies, United Nations agencies and foreign diplomats
82	Goods procured with money donated or granted as aid to the Union by domestic/foreign organizations
83	Jet fuel oil sold for utilization on foreign outbound flights
84	Spares and parts for machinery, equipment and materials used in aeroplane or helicopters
85	Goods exempted from taxes by the Union Parliament in the interest of the Union
86	Goods imported under temporary admission or draw back systems, in accordance with customs procedures
87	Polished or unpolished jade, ruby, sapphire precious stones sold at domestic Myanmar gem fairs held under governmental auspices

- b. With regard to any goods other than those specified in sub-section (a), Commercial Tax shall be levied at the rate of 5 per cent of sales proceeds in case of domestic production or the landed value in case of imports. With respect to any special goods specified in Section (11) of this Law, Commercial Tax shall be paid at the rate of five per cent on sales proceeds inclusive of Special Goods Tax in case of domestic production or the landed value inclusive of Special Goods Tax in case of imports.
- c. Any person engaged in any of the following enterprises inclusive of special goods of Section (11) shall pay Commercial Tax at 5 per cent on sales proceeds, except in the case of trading in goods exempted under this Law: (1) import and domestic sale of goods;
- (2) trade/commerce.
- d. No Commercial Tax shall be levied on the following service enterprises:

Sr.	Kind of services
1	Parking lot services
2	Life insurance services
3	Micro-finance Services
4	Healthcare Services other than cosmetic body modification
5	Educational services
6	Goods Carriage Services (carriage with motor-vehicles, watercraft, aircraft, machineries excluding transport via pipeline)
7	Capital market services
8	Banks and financial services carried on with approval of the Central Bank
9	Customs/port clearance services
10	Catering equipment rental services
11	Cutting-manufacturing-packaging services
12	Funeral services
13	Kindergarten services
14	Traditional physiotherapy/physiotherapy by the blind
15	House moving services
16	Road toll collection services
17	Animal husbandry and veterinary services
18	Public toilet services
19	Foreign route passenger transport services
20	Art and culture services
21	Public transport services (other than domestic air transport of passengers)
22	License fees paid to State organizations for some concession
23	Printing and publishing services from the security printing works under the Ministry of Defence
24	Services procured by foreign diplomatic missions and consulates relevant under "Reciprocal Basis", and diplomats and non-diplomatic personnel thereof
25	Services procured with money donated or granted as aid to the Union by domestic/foreign organizations
26	Goods exempted from taxes by the Union Parliament in the interest of the Union
27	Inter-organization services between organizations such as the Office of the Union, President, Office of the Union Government Cabinet, Office of the Union Parliament, Office of the People's Parliament, Office of the National Parliament, Office of the Union Supreme Court, Office of the Constitutional Tribunal, Office of the Union Election Commission, Office of the Union Attorney General, Office of the Union Auditor General and Office of the Union Civil Service Board, Office of the Naypyidaw Council, Social Security Board, Offices of the Region/state governing bodies, departments
	Goods procured with money donated or granted as aid to the Union by domestic/foreign organizations (excluding services procured or provided by State-Owned-Enterprises)
28	[National] Lottery

29	Mechanized agriculture services
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e. Other than for service enterprises as per sub-section (d), service enterprises operating within the Union shall be levied Commercial Tax at 5 per cent on service income:

- f. Commercial tax shall be levied at 3 per cent on income from passenger transport by domestic airlines.
- g. Commercial tax shall be levied at 3 per cent on sales proceeds on construction and sale of buildings within the Union. The person who constructs and sells buildings shall comply with and enjoy the duties and rights provided in the Commercial Tax Law and Commercial Tax Regulations.
- h. Commercial tax shall be levied at one per cent on sales proceeds of gold jewellery.

15. -

- a. The Ministry of Planning and Finance may grant relief or exemption from Commercial Tax in respect of activities carried out with donations, assistance, loans from domestic or foreign organizations.
- b. No Commercial Tax shall be levied under Commercial Tax Law in the cooperative sector and private sector provided that sales or service income does not exceed the following limits.

(1) Total sales proceeds, within a financial year from production and sale within the State of goods liable for Commercial Tax, of Kyats 500 lakhs only;

(2) Total service proceeds, within a financial year from provision of services liable for Commercial Tax, of Kyats 500 lakhs only;

(3) Total sales proceeds from trading within a financial year of Kyats 500 lakhs only;

(4) Relief or exemption from Commercial Tax *Deminimis Value Threshold*, tariff exemption related to fast-track clearance in accordance with Customs standard procedures.

16. Any person receiving foreign exchange through production and sale of any goods liable for Commercial Tax, or through provision of any service liable for Commercial Tax, or through any trading, shall pay, upon such foreign exchange receipts, Commercial Tax in Kyats computed at the respective rates stipulated in this Law in accordance with Commercial Tax regulations.

17. –

The provision under this Section shall not be relevant to the stipulation of the amount of sales proceeds or income for which Commercial Tax is exempted.

18. The expressions contained in Chapter (6) of this Law shall have the same meaning as provided in the Commercial Tax Law.

Chapter 7. Income Tax

19. –

- a. No income tax shall be levied on any person earning up to Kyats 48 lakhs per annum. If supporting documents are requested in respect of such un-assessed and thus exempted salary income, the Internal Revenue Department shall issue them as prescribed.

- b. However, a person earning in excess of Kyats 48 lakhs per annum shall pay income tax on total salary income.
- c. A person earning in excess of Kyats 48 lakhs per annum in salary or in case of a person with income under the heads of profession, business and other sources, shall, following deduction from the total income of the reliefs as per Section (6) of the Income Tax Law, pay income tax according to strata on the remainder at the following rates:

Sr.	Strata of Taxable Income remaining after deducting provided reliefs from Income		Income Tax Rate %
	From	To	
	Kyat	Kyat	
(1)	1	2,000,000	0
(2)	2,000,001	5,000,000	5
(3)	5,000,001	10,000,000	10
(4)	10,000,001	20,000,000	15
(5)	20,000,001	30,000,000	20
(6)	30,000,001 and above		25

- d. Notwithstanding any provision of the Income Tax Law, income tax shall be levied separately at 10 per cent on total income received by any person from lease of land, buildings or apartments after deduction of reliefs under Section (6). No further assessment shall be made in combination with other incomes. State-Owned-Enterprises, businesses, companies, cooperatives operating under MIC permit shall pay income tax at rates separately stipulated according to the type of assessee.
- e. The rates of income tax in this Section shall not be applicable to assessees for whom specific rates of income tax according to any income earner or class of income have been prescribed.

20. The amount of basic reliefs under Section (6) sub-section (a) sub-sub-sections (1) and (2) of the Income-tax Law shall be equivalent to 20 per cent of each class of income. However, the total basic relief per year shall not exceed Kyats 100 lakhs.

21. Income tax shall be levied on the amount remaining after deduction of the following relief from the total income of the individual under Section (6) sub-section (c) sub-sub-section (2) of the Income-Tax Law, with relief for co-resident parents being inserted in Section (6) sub-section (a) sub-sub-sections (1) and (2) of the Income-Tax Law:

- a. Kyats 10 lakhs for each co-resident parent;
- b. Kyats 10 lakhs for a single spouse only;
- c. Kyats 5 lakhs per offspring.

22. Income received abroad in foreign currency of a non-resident citizen, excluding exempted income heads, shall be levied at 10 per cent on total income, before deducting reliefs provided under Section (6) and (6-A) of the Income-Tax Law.

23. –

- a. With regard to the following types of assesses, income tax shall be levied at 25 per cent on total net income before deduction of reliefs under Section (6) of the Income Tax Law:

(1) A company incorporated in the Union of Myanmar under the Myanmar Companies Act or under the 1950 Special Companies Act.

(2) Income other than under the heading of salary of Non-resident foreigner.

(3) Enterprise carried on under Myanmar Investment Commission's Permit.

(4) State-Owned Economic enterprises.

b. Cooperative societies other than primary ones, shall be levied income tax at 25% upon income remaining after deducting from net profits the reliefs provided in Section (6) of the Income-Tax Law.

24. No deduction as per Section (6) and (6-A) of the Income-Tax Law shall be made in case of a non-resident foreigner. Income tax shall be levied at the tax rates specified in Section (19) sub-section (a) of this Law on income under the heading of salary on of the total income of such person.

25. Income-tax shall be levied at 30 per cent on income that has escaped assessment, before deducting reliefs provided under Section (6) and (6-A) of the Income-Tax Law. However, with regard to income utilized by any citizen in purchase, development or acquirement of any capital asset, establishment of new business or expansion of business, income-tax shall be levied at the following rate on the income that has escaped assessment remaining after deduction, from the amount utilized, of the amount for which source of income can be shown, or on the income utilized if no source of income can be shown. Where exact source of income can be shown for all of the income utilized, no income-tax need to be levied. The assessment of tax under this Section shall not be relevant to possession of or dealing in property acquired through unlawful means, and to matters of legal actions under the Anti-Money-Laundering Law:

	Income (Kyats)		Income Tax Rate %
a.	1	30,000,000	15
b.	30,000,001	100,000,000	20
c.	100,000,001 and above		30

Primary cooperative societies, incorporated under the Cooperative Societies Law, shall be levied income-tax at income tax rates specified in Section (19) sub-section (c) herein upon the income remaining after deducting from net profits the reliefs provided in Section (6) of the Income-Tax Law.

26. Upon capital gains in Kyats or foreign currency through sale, exchange or transfer through any other means of one or more capital assets, before deducting reliefs provided under Section (6) and (6-A) of the Income-tax Law, :

a. Income-tax shall be levied in currency received at the following respective rates shown adjacent to the amount of gains, for companies participating to the oil and gas sector of the Union of Myanmar:

	Capital Gains	Rate of Income Tax
a.	Up to equivalent of Kyats 100,000 million	40%

b.	From equivalent of Kyats 100,001 million to Kyats 150,000 million	45%
c.	Above equivalent of Kyats 150,001 million	50%

Income-tax shall be levied at 10 per cent on the amount of gains in Kyats or foreign currency, for individuals or entities other than companies participating in the oil and gas sector of the Union of Myanmar. Non-resident foreigners shall pay the tax assessed in the currency received.

27. No income-tax shall be imposed on sale, exchange or transfer through any other means of one or more capital asset(s), in the case that total value of the capital asset(s) transacted in one year does not exceed Kyats 100 lakhs, even if capital gains arise.

28. Newly established small or medium industrial enterprises shall not pay income-tax on net profit not exceeding Kyats 100 lakhs in three consecutive years including the year of commencement of business. In case of income exceeding the said amount, income-tax shall be assessed only on the amount in excess.

29. For income in foreign currency under any heading other than capital gains, income-tax shall be computed as provided in Income-tax Regulation (8), and paid in Kyats in case of resident citizen or resident foreigner, and in the foreign currency received in case of a non-resident foreigner.

30. -

a. Income-tax is exempt on any income or class of income given below:

- (1) Up to Kyats 100 lakhs of the total award money received, in a single instance or multiple instances, within the income year according to the programme of awards on seizures under the Narcotic Drugs and Psychotropic Substances Law;
- (2) Up to Kyats 100 lakhs of the total award money received, in a single instance or multiple instances, within the income year according to the programme of awards on seizures of contraband;
- (3) Money received together with honorary titles or insignia awarded by the State;
- (4) Salary income in foreign currency of a non-resident citizen;
- (5) Proceeds from winning government lottery.
- (6) Pension and gratuities received on retirement of public service personnel.

b. The Ministry of Planning and Finance has the power to grant relief or exemption on income tax in respect of the following:

- (1) Income tax matters related to activities carried on with donations or assistance provided by domestic or foreign entities;
- (2) Income tax matters related to public companies listed on the Yangon Stock Exchange, with objective of prompting development of the stocks and shares market.

31. The expressions contained in Chapter (7) of this Law shall have the same meaning as provided in the Income-tax Law.

Chapter 8. Rates for other taxes

33. Relevant Ministries shall arrange in accordance with prevailing law the rates to be imposed, exemptions and reliefs for the following taxes:

- a. Excise tax;
 - b. Import license and permit fees;
 - c. National lottery;
 - d. Fees in respect of motor-vehicles, driver-licenses, business licenses;
 - e. Stamp duties;
 - f. Tax on nucleus insertion of oysters;
 - g. Custom duties;
 - h. Land revenue;
 - i. Water tax;
 - j. Reservoir/irrigation tax;
 - k. Tax on extraction of forest produce;
 - l. Tax on extraction of minerals (excluding industrial raw-material minerals and decorative rocks);
 - m. Fisheries tax;
 - n. Oil and gas extraction tax;
 - o. Metals and gems tax;
 - p. Communication services tax;
 - q. Electric power received gratis in respect of extraction of Hydro-Electrical Power;
 - r. Fees from tours, hotel, motel, inns licenses; tourist transportation/tour guide licenses.
34. Enterprises engaged in extraction of unpolished jade, ruby, sapphire, emerald, diamond and other gems; manufacture and trading of polished gems and jewellery shall:
- a. pay, on proceeds in Kyats or foreign exchange from sale of gems or jewellery:
 - (1) Special Goods Tax at the rates specified in Section (11) of this Law.
 - (2) Commercial tax at five per cent in respect of import, manufacture and distribution, and trading under Section (14) sub-sections (b) and (c) of this Law.
 - (3) The provision under sub-sub-section (2) shall not be relevant to the stipulation of the amount of un-assessable sales proceeds.
 - b. Income tax shall be assessed at the rates of income-tax prescribed in this Law on the total net profits within the income year.

Chapter 9. Miscellaneous

34. Union Government may as needed by notification form and assign bodies to support tax collection.
35. Without contravening international agreements entered into by the State, the Union Government Cabinet shall carry out the following in order to enable competitiveness of goods produced within the State against imported goods; long-term interest of domestic agricultural and animal husbandry enterprises depending mainly on domestic production enterprises and domestic and foreign investment enterprises operating within the State:
- a. Obtaining maximum rights and reliefs in respect of import volume and custom duty rates in the same manner as other ASEAN countries, within the framework of global trade and ASEAN trade agreements;
 - b. Providing necessary arrangements either in accordance with provisions of Customs Law or in accordance with procedural provisions related to import-export allowances/permits and allocations/quotas.
37. –
- a. In order that persons liable for taxes pay them in accordance with the law, the Internal Revenue Department shall educate and encourage the people, inform them of the exemptions and reliefs that may be enjoyed, and explain and provide such exemptions and reliefs at the time of collection, arrange for recognition and suitable awards to tax-payers.
 - b. In order to implement the matters under above sub-section (a) toward reform of the tax system, the Ministry of Planning and Finance may in accordance with financial procedures allocate as current expenditure of the Internal Revenue Department in the Union Budget Law.
 - c. The Ministry of Planning and Finance may in accordance with financial procedures use the expenditure allotted under sub-section (b) to grant bonuses to civil service personnel who have fully discharged their functional duties.
38. Twenty per cent and thirty per cent of fines collected under Section (22) sub-section (c) of the Special Goods Tax Law for possession of special goods with unpaid tax shall be given as reward to the informant and to the search and arrest team respectively. Identity of no informant shall be disclosed except for government business.

Signed by me under the Constitution of the Republic of the Union of Myanmar.

(by) Htin Kyaw
Union President
Republic of the Union of Myanmar

Table (1)

Original Amounts of Union Taxes budgeted for Collection in the Fiscal Year 2017-2018

(Kyat millions)

Sr.	Responsible Ministries of the Union Government Cabinet	Description	2017-2018 Estimate
1		Taxes on domestic product and consumption	2,712,666,884
1	Ministry of Home Affairs	Excise Tax	940,311
2	Ministry of Finance	Commercial Tax	1,752,443,232
3	Ministry of Commerce	License fees for imports	5,000,000
4	Ministry of Planning and Finance	National Lottery	47,356,258
5	Ministry of Transport and Communication	Fees for vehicles, driver-license, and business licenses	170,580,000
6	Ministry of Planning and Finance	Stamp Duties	47,689,312
7	Ministry of Natural Resources and Environmental Conservation	Tax on nucleus insertion of oysters	640,000
8	Ministry of Hotel & Tourism	Fees from tour, hotel, motel, inn licenses; tourist transportation licenses;	717,840
9	Ministry of Planning and Finance	Special Goods Tax	687,299,931
2		Taxes on income and property	2,382,000,000
1	Ministry of Planning and Finance	Income Tax	2,382,000,000
3		Custom Duties	490,000,000
1	Ministry of Planning and Finance	Custom duties	490,000,000
4		Taxes on extraction of State-owned resources	896,332,006
1	Ministry of Home Affairs	Land revenue	1,485
2	NayPyiTaw Council	Water Tax	95,118
3	Ministry of Home Affairs	Reservoir Tax	0.025
4	Ministry of Natural Resources and Environmental Conservation	Tax on extraction of forest produce	2,296,775
5	Ministry of Home Affairs	Tax on extraction of minerals (excluding industrial raw-material minerals and decorative rocks)	3,855
6	Ministry of Agriculture, Livestock and Irrigation	Fisheries Tax	1,503,800
7	Ministry of Electricity and Energy	Oil and Gas Tax	278,623,086
8	Ministry of Natural Resources and Environmental Conservation	Mineral and Gems Tax	27,143,542
9	Ministry of Transport and Communication	Tax on telecommunication services	576,248,000
10	Ministry of Electricity and Energy	Tax on Hydro-Electric Power Extraction	10,426,320
		Total	6,481,008,890

Annex III - Unofficial English Translation

(DRAFT) Law Amending Special-Goods Tax Law

1. The Law shall be known as the Law Amending Special-Goods Tax Law.
2. The provisions of this Law shall be effective over the entirety of the Union with effect from the Fiscal Year 2017-2018.
3. In Section (3) of the Special-Goods Tax Law:
 - a. in sub-section (d) - the expression ^{manufacture of} “Special-Goods” shall be replaced with the expression ^{ manufacture of} “Special-Goods **excluding dealing in gems**”; and the expression “includes not only various stages of manufacture of goods” shall be replaced with the expression “includes not only various stages of manufacture, **repair, installation or extraction of goods, whether manually or by machine**”.
 - b. in sub-section (d) sub-sub-section (3) - the expression ^{Other Special-Goods} “extraction or ^{...} either manually” shall be replaced with the expression ^{Other Special-Goods} “**manufacturing**, extraction or ^{...} either manually”.
 - c. in sub-section (g) - the expression ^{credit} “or deferred payment” shall be replaced with the expression ^{credit} “or deferred payment **or barter system**”.
 - d. in sub-section (h) - the expression “authorized by ^{owner} or manufacturer of Special-Goods” shall be replaced with the expression “authorized by ^{owner} , **importer**, manufacturer, **exporter or gem dealer** of Special-Goods”.
 - e. in sub-section (j) - the expression ^{of} “imported” ^{Special-Goods means } shall be replaced with the expression ^{of Special-Goods} “**brought into the country**” ^{means}.
 - f. in sub-section (l) - the expression “^{and} which does not include tax” ^{payable under this Law} shall be replaced with the expression “, **inclusive of tax**” ^{payable under this Law}.
 - g. in sub-section (m) - the expression “in accordance as prescribed” shall be replaced with the expression “**in accordance with method prescribed by the Director-General**”.
 - h. in sub-section (m) - the expression “in respect of manufacture and sale of Special-Goods already manufactured by him” shall be replaced with the expression “**in respect of Special-Goods Tax payable by manufacturer, manufacturer-distributor, exporter, gem dealer**”.
 - i. in sub-section (q) - the expression “Ministry of Finance” shall be replaced with the expression “**Ministry of Planning and Finance**”.
 - j. sub-sections (u), (v) (w), (x), (y), (z), (aa), (bb) shall be inserted after sub-section (t) as follows:

“u. Exporter means an exporter of Special-Goods.

v. Gem means gem as defined in Myanmar Gems Law.

w. Gem Merchant means any person who deals in jade and gems within the Union.

x. Duty Stamp means any label or other supporting document affixed or employed under Section (34) of this Law in respect of Special-Goods.

y. Business Premises mean the compound of a business or branch registered under this Law.

z. Annexed Schedule of this Law means the Special-Goods Schedule contained in the Special-Goods Chapter of the Union Tariffs Law.

aa. Forms mean forms prescribed pursuant to the duties and powers of the Director-General under this Law.

bb. Value-Grade means the price value-grade of Special-Goods stipulated in the Union Tariffs Law according to fiscal year.”

4. In S-section (d) shall be inserted as follows after Section (4) sub-section (c) of the Special-Goods Tax Law:

“d. In matters concerning gems, tax shall be assessed on dealing in gems in addition to carry out as per sub-section (a).”

6. Sub-section (d) shall be inserted as follows after Section (4) sub-section (c) of the Special-Goods Tax Law:

“d. In case of dealing in gems, the seller shall pay [the tax].

e. In case of possession of Special-Goods on which tax had not been paid, the person having such possession shall pay [the tax].”

7. Section (6) of the Special-Goods Tax Law shall be replaced with the following:

“a. For any year, by means of the Union Tariffs Law promulgated according to Fiscal Year:

(1) [the list of] Special-Goods for which tax is assessable may be amended (changed, supplemented or deleted).

(2) rates of tax to be utilized in computations shall be stipulated for tax assessable Special-Goods based on value, quantity, weight or other measurement.

(3) types of Special-Goods and rates of tax shall be stipulated for exports.

b. -

(1) A manufacturer or importer of Special-Goods shall apply through the Revenue Officer to the Director-General for determination of Value-Grade of the Special-Goods manufactured or imported by him.

(2) The Director-General may prescribe the application form and method of application.

(3) The Director-General shall determine as prescribed the Value-Grades of Special-Goods for the relevant fiscal year.

(4) A Special-Goods for which Value-Grade have not been determined, may be determined as highest Value-Grade unless the Director-General determines other appropriate Value-Grade. “

8. Section (7) of the Special-Goods Tax Law shall be replaced with the following:

“a. In respect of Special-Goods taxable under Section (4), computations shall be carried out utilizing the tax rate which is determined based on the value, quantity, weight or other measurement at the following date:

(1) In case of import or export, the date of custom clearance of such Special-Goods;

(2) In case of Special-Goods manufactured domestically:

(aa) the date of manufacture of the Special-Goods, in case of their being those prescribed by notification of the Ministry for tax based on manufacture;

(bb) the date of sale of the Special-Goods in case of remaining Special-Goods;

(3) the date of discovery, in case of discovery through investigation of possession of Special-Goods for which tax under this Law has not been assessed.

EXPLANATION. Special-Goods for which tax under this Law has not been assessed mean the following:

a. those prescribed to be affixed with Duty Stamps but are not so affixed as prescribed;

b. with regards to the remaining Special-Goods, those imported without registration as prescribed; those imported not from an authorized importer; those manufactured or extracted without being in accordance with prescribed [procedure]; those purchased from authorized manufacturer or extractor but for which full supporting documents of tax payment cannot be presented.

(4) the date of sale, in case of dealing in gems;

(5) other suitable methods as prescribed by the Director-General, in addition to provisions of sub-sub-sections (2), (3) and (4).

b. Computation of the amount of Special-Goods Tax payable shall be based on the following values:

(1) Landed-Value in case of being imported Special-Goods;

(2) For Special-Goods manufactured domestically:

(aa) the Ex-Factory price approved for the relevant fiscal year by the Director-General and the Management Committee of the Internal Revenue Department, in case of being prescribed through Notification of the Ministry to assess tax on manufacture;

(bb) whichever is greater between the Ex-Factory prices submitted by the manufacturer and determined by the Director-General or the Township Revenue Officer;

(3) Free On Board (FOB) price, in case of exported Special-Goods;

- (4) sale price or market price at the time of discovery in case of Special-Goods for which tax under this Law has not been assessed, discovered upon investigation at the their possessor;
- (5) the value computed according methods prescribed by the Director-General, in cases where it is difficult to comply with the provisions of sub-sub-section (4);
- (6) sale proceeds in case of dealing in gems.”

9. Section (8) sub-section (a) of the Special-Goods Tax Law shall be replaced with the following:

“a. Any person assessed with tax under this Law shall make payment as follows:

- (1) in case of import of Special-Goods, before clearance;
- (2) in case of domestic manufacture of Special-Goods:
 - (aa) in case of Special-Goods prescribed by notification of the Ministry for tax based on manufacture, within ten days after the month of manufacture of such Special-Goods;
 - (bb) in case of remaining Special-Goods, within ten days after the month in which they are sold.
- (3) in case of export, within ten days after the month in which they are exported.
- (4) in case of discovery through investigation of possession of Special-Goods for which tax under this Law has not been assessed, within seven days of such discovery by such person having possession;
- (5) in case of dealing in gems, within ten days after the month of sale.”

10. In Section (9) of the Special-Goods Tax Law:

a. sub-section (a) sub-sub-sections (2), (3) and (4) shall be replaced with the following:

- “(2) Special-Goods sold to travellers from Duty-free Outlets, other than Special-Goods prescribed to be assessed tax on export;
- (3) Special-Goods sold on-board aircraft or vessel plying foreign route, other than Special-Goods prescribed to be assessed tax on export;
- (4) Special-Goods imported temporarily with objective of re-exporting;”

b. sub-section (b) sub-sub-section (3) shall be replaced with the following:

- “(3) Special-Goods manufactured by self or imported or procured by security and defence forces of the Union, other than logs or conversions of teak or hardwood having ten-inch or greater circumference, jade, ruby, sapphire, emerald, diamond and other valuable gems in unpolished or polished state.”

11. Section (10) sub-section (a) of the Special-Goods Tax Law shall be replaced with the following:

“a. compliance procedures related to Special-Goods imported temporarily with objective of re-exporting to the country from which they were originally imported in their original magnitudes and conditions;”

12. Section (11) of the Special-Goods Tax Law shall be replaced with the following:

“11. -

- a. A manufacturer or exporter of Special-Goods may, from tax assessed, offset tax already paid at time of purchase from another Special-Goods manufacturer or import by self of Special-Goods for purpose of export or manufacture of his Special-Goods.
- b. Offsetting of tax on payment shall be carried out as prescribed in order to avoid double-taxation.
- c. No offsetting of tax shall be allowed for manufacture and sale or dealing in gems.
- d. However, in case of re-purchase and export by self, of gem sold by self at a Myanma Gems Fair held under governmental auspices, the tax paid at the time of re-purchase by self at the said Fair may be offset from the tax assessed for export.”

13. The introductory text of Section (12) of the Special-Goods Tax Law shall be replaced with the following:

“12. The Director-General shall exercise the following powers and responsibilities; and may delegate the discharge [/exercise] of the said powers and responsibilities to any individual or to committees/groups:”

14. _

a. The introductory text of Section (13) of the Special-Goods Tax Law shall be replaced with the following:

“An individual or committee/group delegated with any power or responsibility under Section (12) by the Director-General:”

b. Section (13) sub-section (b) of the Special-Goods Tax Law shall be replaced with the following:

“b. may stop and inspect transportation vehicles about to depart any warehouse or business premises related to Special-Goods or while transporting Special-Goods.”

c. In Section (13) sub-section (d) of the Special-Goods Tax Law - the expression “manufacturer” shall be replaced with the expression “**importer, manufacturer, exporter or gem dealer**”.

15. In Section (14) of the Special-Goods Tax Law – the expression “**certified identity card or**” shall be inserted in front of the expression “documentation.”

16. In Section (15) of the Special-Goods Tax Law:

a. each expression of “manufacturer of Special-Goods” in sub-section (a) and sub-section (b) shall be replaced with the expression “importer, manufacturer, exporter of Special-Goods, gems dealer”.

b. sub-section (c) shall be replaced with the following:

“c. With regards to an application for registration of business under sub-section (a) or (b), the Township Revenue Officer shall after scrutiny as prescribed, issue business registration for the relevant Fiscal Year.”

c. sub-section (d) shall be inserted as follows after sub-section (c):

“d. A registered importer, manufacturer, exporter of Special-Goods, gems dealer shall renew each year the business registration issued according to relevant fiscal year.”

17. Section (16) of the Special-Goods Tax Law shall be replaced with the following:

- a. A manufacturer who domestically manufactures taxable Special-Goods or importer of taxable Special-Goods or gems dealer shall pay the due taxes as per Section (8) of the Special-Goods Tax Law, and also send the quarterly declaration-form for manufacture, manufacture and sale, export of Special-Goods and dealing in gems to the Township Revenue Officer, within ten days after the completion of the respective quarter.”
- b. The Township Revenue Officer notify any person to pay due taxes and to send quarterly declaration-form if the Township Revenue Officer has grounds for believing that such person is manufacturing, exporting taxable Special-Goods or dealing in gems.
- c. An importer of taxable Special-Goods shall submit a list of imported Special-Goods to the Customs Department before clearance from the Customs Department.”

18. Section (17) of the Special-Goods Tax Law shall be replaced with the following:

- a. If the Township Revenue Officer is satisfied that the declaration-form sent as per Section (16) sub-sections (a) and (b) is complete and correct as to the related Special-Goods, tax shall be assessed based on such declaration-form.”
- b. If the Township Revenue Officer has grounds to believe that true amount of tax cannot be obtained from the data contained in the declaration-form received in respect of manufacture, manufacture and sale, export of Special-Goods, dealing in gems, tax may be assessed through examination other evidence as may be required.
- c. In case of failure to send declaration-form concerning manufacture, manufacture and sale, export of Special-Goods, dealing in gems, the Township Revenue Officer shall assess tax based on information received.
- d. The assessment of tax on manufacture, manufacture and sale, export of Special-Goods, dealing in gem, shall be carried out on the manufacturer, exporter, gems dealer within the month the declaration form under Section (16) sub-section (a) is filed. [The Township Revenue Officer] may summon and examine, and demand information from any person prior to assessment of tax.”

19. In Section (18) of the Special-Goods Tax Law – the expression “ is entitled to request ^{refunds} only within one year “ shall be replaced with the expression “***is entitled only for one year to request reimbursement or offsetting or determination as tax payable and outstanding in respect of such refunds.***”.

20. In Section (21) sub-section (f) sub-sub-section (2) of the Special-Goods Tax Law – the expression “fifty per cent of tax assessed” shall be replaced with the expression “***fifty per cent of the tax payable in addition.***”

21. In Section (22) of the Special-Goods Tax Law:

- a. in sub-section (b) – the expression “in time” shall be replaced with the expression “***s***”.
- b. in sub-section (c) – the expression “***by person having possession***” shall be inserted at “Payment of one hundred per cent of value of Special-Goods with unpaid tax found in possession “ .
- c. in sub-section (d) – the expression “***by additionally assessed***” shall be inserted before the expression “tax due”.
- d. sub-section (e) shall be replaced as follows:
 - e. Ten per cent of additionally assessed due tax in case of failure submit quarterly declaration-form in time.”

e. sub-section (f) shall be replaced as follows:

“f. Fifty per cent of value of Special-Goods found on inspection by Township Revenue Officer, with failure to affix prescribed duty stamps as statutorily required, to be paid by the manufacturer of Special-Goods”.

22. In Section (23) sub-section (c) and Section (25) sub-section (a) of the Special-Goods Tax Law, the expression “manufactured quantity” shall be replaced with the expression “**quantity [of Special-Goods] manufactured, imported, exported or gems dealt with locally**”.

23. Section (33) sub-section (a) of the Special-Goods Tax Law shall be replaced with the following:

“A. Amounts collected for import of Special-Goods, from State-Owned Enterprises and Workplaces may be credited to the budget of the relevant Region/state in accordance with the percentage determined by the Union Government Cabinet.”

24. Section (37) shall be inserted as follows after Section (36) of the Special-Goods Tax Law:

“37. With regards to the following matters, Special-Goods tax shall be deemed as paid if the Director-General is so satisfied:

- a. Commercial-Tax has been paid in accordance with 1990 Commercial Tax Law, 2014 Union Tariffs Law or 2015 Union Tariffs Law, in respect of goods imported or manufactured prior to the date of 1-4-2016;
- b. the goods are not liable for Commercial Tax, being manufactured or imported before coming into force of the 1990 Commercial Tax Law;
- c. the Special-Goods are tax exempt (for example, goods as per Section (9) sub-section (a) sub-sub-section (1) of this Law).”

25. The introductory text to the Annex Schedule of the Special-Goods Tax Law shall be deleted.

Annex IV - Unofficial English Translation

Government of the Republic of the Union of Myanmar
Ministry of Planning and Finance
Minister's Office

100968

13-1-17

Notification 6/2017

January 11, 2017

Procedures for legal action against imports in contravention of license, specifications

Exercising the powers conferred by Section (204b) of the Sea Customs Act, the Ministry of Planning and Finance hereby issues the following procedures, with the approval of the Union Government Cabinet.

Chapter 1. Title, Effective-Date and Definitions

1. –
 - a. These Procedures shall be known as the Procedures for legal action against imports in contravention of license, specifications.
 - b. These Procedures shall come into force on the completion of 60-days after the issuance of this Notification.
2. The expression contained in these Procedures shall have the same meaning as defined in the Sea Customs Act and the Land Customs Act. Furthermore, the following expressions shall have the meanings given hereunder:
 - a. **Union Minister** means the Union Minister of the Ministry of Planning and Finance.
 - b. **Director General** means the Director General of the Customs Department.
 - c. Import Licence (IL), **Import Permit** (IP) means import licence, permit approved and issued by the Department of Trade for import of goods.
 - d. **Term of import licence**, permit means the period commencing the date of issue of the import licence by the Department of Trade, and the Last Date of Import specified on said license.
 - e. **Date of Arrival of Goods** mean the date of arrival/berthing of the vessel carrying such goods at the prescribed port/location, as confirmed by relevant departments.
 - f. **Prior Arrival** means arrival of imported goods at the prescribed port/location prior to the date of issue of import licence by the Department of Trade.
 - g. **After Landed Correction (ALC) of Manifest** means the date of telex from Shipper notifying for correction of manifest is later than the date of Arrival of Goods.

Chapter 2. Legal Action against Imports

3. Goods imported into the Union of Myanmar without any documents of permission in contravention of prohibitions or regulatory restrictions shall be liable for confiscation under Section 167(8) of the Sea Customs Act and Section 7(1) of the Land Customs Act; and any person involved in such offence shall be liable for payment of a fine not exceeding three times the value of customs duties on such goods, in the absence of which, the said person may be charged before a justice of the criminal proceedings court, and shall be liable for a prison term not exceeding three years upon conviction.

4. With regard to the confiscated goods, the owner of the goods shall apply under Section (183) of the Sea Customs Act to the Director General to be allowed instead to take possession of them against payment of appropriate monetary penalties. Depending on the magnitude of the offence, the Director General may allow re-possessing of the goods.
5. The Director General shall comply with the annexed schedule in respect of prescribing of fines against motor-vehicles, machines and general goods imported in contravention of licence and restrictions. Legal action will be taken under the Sea Customs Act and the Land Customs Act against import of prohibited goods.

Chapter 3. Miscellaneous

6. Any person aggrieved with any order or decision made by a Customs Officer under the Sea Customs Act, may within one month of such ruling, lodge an appeal in accordance with Section (188) and Section (189) of the Sea Customs Act.
7. A Customs Valuation made in accordance with Customs Valuation Regulations, will be determined as the assessable value in accordance with the six criteria contained in the WTO Valuation Method.
8. The Union Minister has the power to amend or cancel these Procedures from time to time with the approval of the Union Government.

Kyaw Win
Union Minister

Letter No.: SaBa/Banda-1/3/1(300/2017)

Date: January 11, 2017

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By Order

signed
(for) Union Minister
(Maung Maung Win, Deputy Minister)

**Prescribing of penalties on
vehicles/machines imported normally, on motor-vehicles imported under projects and general goods**

Sr.	Offense	Description	Vehicles/machines imported normally, motor-vehicles imported under projects	General Good	Remarks
			Penalty	Penalty	
1.	Discrepancy of Main Brand	For example: in case of motor-vehicles, the actual brand imported is Nissan , when the brand approved in IL/IP/ID is Toyota . In case of machines, the actual brand imported is Caterpillar , when the brand approved in IL/IP/ID is Komatsu .	Confiscation	1/2 AV	
2.	Brand (Not Found)	For example: in case of motor-vehicles, the actual brand imported is Nissan , when the brand approved in IL/IP/ID is Toyota . In case of machines, the actual brand imported is Caterpillar , when the brand approved in IL/IP/ID is Komatsu .	Confiscation	1 AV	Exemption from fine if the brand can be established through examination of supporting evidence of brand specifications.
3.	Country of Origin (Not Found)		Confiscation	1 AV	Exemption from fine if the C/O can be established through examination of supporting evidence of C/O.
4.	Discrepancy of Sub-Brand	For example: in case of motor-vehicles, the actual imported is Toyota Belta , when the brand approved in IL/IP/ID is Toyota Corolla . In case of machines, discrepancy between the Model Number approved in IL/IP/ID and the Model Number actually imported.	1 AV	Exempt	1 AV is an appropriate fine, as it is official import with same brand and same type.

Sr.	Offense	Description	Vehicles/machines imported normally, motor-vehicles imported under projects	General Good	Remarks
			Penalty	Penalty	
5.	Discrepancy of Type	For example, in case of motor-vehicles: Discrepancy between ordinary Truck and Box Truck ; discrepancy between Saloon and Van ;	1/2 AV	1/90 AV	This penalty is for discrepancy in type only with the motor-vehicle classification remaining the same. Value is to be assessed based on the actual vehicle imported.
		Import <i>Without Body</i>	Confiscation		
6.	Discrepancy of classification	For example: Saloon versus Bus ; Hauler versus Bus and so on.	Confiscation		Vehicles to be classified with confirmation of Ka.Nya.Na (saloon, bus, hauler, operational, machines)
7.	Import of model <i>earlier (older/lower)</i> than the lowest bound of Model Year range imposed by Ministry of Commerce	1-year earlier	Confiscation		Model Year will be determined based on Chassis Code/Vin Code. If not possible, it will be determined according to analysis and confirmation of Ka.Nya.Na. Assessment to be made based on confirmed Mdl Year. If the Chassis No/Vin Code had been tampered with, [the vehicle] will be confiscated, regardless of whether it complies with prescribed bounds.
		2-years or more earlier	Confiscation		
		Earlier but within prescribed year limits	1/24 AV		
8.	Import of model <i>later (newer/higher)</i> than the bound of Model Year range imposed by Ministry of Commerce	Later but within prescribed year limits			
		Later than prescribed year bound			
9.	Discrepancy from IL/IP/ID	P.O.L discrepancy	Exempt	Exempt	
		P.O.D discrepancy	Exempt	Exempt	
		Country of Origin discrepancy	1/90 AV	1/180 AV	Assessable Value to be confirmed based on actual Country of Origin.
		Discrepancy of Capacity Weight in case of <i>vehicles/machines</i> ; discrepancy of Weight in case of <i>General Goods</i> .	MMK 100,000/ton	Exempt	Assessable Value to be confirmed based on actual Capacity Weight.
		Discrepancy of Vehicle Weight in case of <i>vehicles/machines</i>	MMK 100,000/ton	-	To be computed as: 0.5-1.49 = 1 Ton 1.5-2.49 = 2 Ton and so on.

Sr.	Offense	Description	Vehicles/machines imported normally, motor-vehicles imported under projects	General Good	Remarks
			Penalty	Penalty	
		Discrepancy in number of seats	1/4 AV	-	To be determined and assessed based on the Standard Seater/Engine Displacement of the vehicle actually imported.
		Discrepancy of Measurement of General Goods	-	Exempt	To be determined and assessed based on the Measurement of the General Goods actually imported.
		Discrepancy in thickness	-	MMK 50,000/ton	
10.	Discrepancy in LHD, RHD	Import of RHD instead of permitted LHD	Confiscation	-	
		Import of LHD instead of permitted RHD	Exempt	-	
11.	Discrepancy in Reconditioned criteria of motor-vehicles/machines, equipment and spares.	Discrepancy in Reconditioned criteria of motor-vehicles/machines	MMK 200,000	1/50 AV in case of equipment	Six reconditioned criteria as per the Department of Trade's Export/Import Newsletter 6/96 dated 17-5-1996
12.	Import of Used/reconditioned instead of Brand New	-	Confiscation	1/2 AV	.
13.	Import of Brand New instead of Used/reconditioned	-	1/2 AV	Exempt	Import of Used (vehicles) is not permitted
14.	Arrival of goods before receiving of Valid For Prior Arrival (VPA) permit; receiving of license/permit amendments only after arrival of goods.	1-7 days	Confiscation	Exempt	
		8-30 days		1/90 AV	
		31-45 days		1/48 AV	
		46-60 days		1/24 AV	
		61 days and above		Confiscation	
15.	Expired IL/IP	1-7 days	Confiscation	Exempt	With regards to IL/IP renewal, if renewal is approved despite lateness, then no action need to be taken under this section.
		8-30 days		1/180 AV	
		31-45 days		1/90 AV	
		46-60 days		1/48 AV	
		61 days and above		Confiscation	

Sr.	Offense	Description	Vehicles/machines imported normally, motor-vehicles imported under projects	General Good	Remarks
			Penalty	Penalty	
16.	After Landed Correction (ALC) of Manifest	1-15 days	1/24 AV	1/360 AV	Difference between Berthing Date and Date of Correction (Telex Date from Shipper must be computed.)
		16-30 days	1/12 AV	1/180 AV	
		31-60 days	1/6 AV	1/90 AV	
		61 days and above	1/2 AV	1/24 AV	
		Correction by Shipping Line	MMK 100,000	MMK 4,000	Only valid corrections by Shipping Line are splitting or combining of manifest line-items, or insertion of additional line-items to the manifest. (PaLa-Ka 167(16))
17.	Mis-declaration of particulars on IL/IP/ID or attached documents	Discrepancies that may detrimentally affect revenue	1/4 AV	1/360 AV to 1 AV	Discrepancy between IL/IP/ID and other related documents such as BL. Invoice, Packing List. Deliberation will be based on whether or not the errors in the Commercial Documents have detrimental revenue consequences. Misspellings in name, address shall be exempt.
		Discrepancies that do not detrimentally affect revenue	1/90 AV		
18.	IP, IP, ID Excess	In respect of General Goods, where advanced declaration of excess cargo or Section (29) is invoked:			Computation of excess percentage shall be based on quantity/weight/value of goods.
		Up to 10%	-	1/24 AV	
		11%-30%	-	1/12 AV	
		31%-50%	-	1/4 AV	
		51% and above	-	1/2 AV	
19.	IP, IP, ID Excess	Excess cargo found on Customs Exam, with no advance declaration or application under Section (29) post-inspection submission:			Computation of excess percentage shall be based on quantity/weight/value of goods.
		Up to 10%	-	1/12 AV	
		11%-30%	-	1/6 AV	
		31%-50%	-	1/2 AV	
		51% and above	-	1 AV	

Sr.	Offense	Description	Vehicles/machines imported normally, motor-vehicles imported under projects	General Good	Remarks
			Penalty	Penalty	
20.	Not included in approved IL/IP/ID	Import of goods other than approved in IL/IP/ID; Completely different from approved classification	Confiscation	Confiscation or 1 AV	Imports under license will be compared against license. Imports not requiring a license will be compare against import declaration from/by the Customs Department.
21.	No safety-belt in vehicle.	-	1/180 AV	-	Approved at Proceedings 4/2016 held 29-11-2016 of the Motor-vehicle Imports Supervisory Committee



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